

ESTTA Tracking number: **ESTTA558460**Filing date: **09/09/2013**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD**Notice of Opposition**

Notice is hereby given that the following party opposes registration of the indicated application.

Opposer Information

Name	Monster Energy Company
Granted to Date of previous extension	09/08/2013
Address	1 Monster Way Corona, CA 92879 UNITED STATES
Attorney information	Brigette B. Chaput Knobbe Martens Olson & Bear LLP 2040 Main Street, 14th Floor Irvine, CA 92614 UNITED STATES efiling@knobbe.com Phone:949-760-0404

Applicant Information

Application No	85746755	Publication date	03/12/2013
Opposition Filing Date	09/09/2013	Opposition Period Ends	09/08/2013
Applicant	Monsters and Machines, LLC 4907 Queensbury Circle Fredericksburg, VA 22408 UNITED STATES		

Goods/Services Affected by Opposition

Class 025. All goods and services in the class are opposed, namely: Hats; Hooded sweatshirts; Jackets; Pants; Shirts; Short-sleeved or long-sleeved t-shirts; Shorts; Sweatshirts; T-shirts; Tank tops

Grounds for Opposition

Priority and likelihood of confusion	Trademark Act section 2(d)
Dilution	Trademark Act section 43(c)

Marks Cited by Opposer as Basis for Opposition

U.S. Registration No.	3908601	Application Date	04/02/2009
Registration Date	01/18/2011	Foreign Priority Date	NONE
Word Mark	M MONSTER ENERGY		
Design Mark			

Description of Mark	The mark consists of a stylized letter "M" and stylized words "MONSTER ENERGY".		
Goods/Services	Class 025. First use: First Use: 2002/05/24 First Use In Commerce: 2002/06/30 Clothing, namely, t-shirts, hooded shirts and hooded sweatshirts, sweat shirts, jackets, pants, bandanas, sweat bands and gloves; headgear, namely, hats and beanies		

U.S. Registration No.	4036681	Application Date	09/11/2007
Registration Date	10/11/2011	Foreign Priority Date	NONE
Word Mark	MONSTER ENERGY		
Design Mark			
Description of Mark	NONE		
Goods/Services	Class 032. First use: First Use: 2002/03/27 First Use In Commerce: 2002/04/18 Non-alcoholic beverages, namely, energy drinks, excluding perishable beverage products that contain fruit juice or soy		

U.S. Registration No.	3057061	Application Date	04/18/2002
Registration Date	02/07/2006	Foreign Priority Date	NONE
Word Mark	MONSTER ENERGY		
Design Mark			
Description of Mark	NONE		
Goods/Services	Class 032. First use: First Use: 2002/03/27 First Use In Commerce: 2002/04/18 Fruit juice drinks having a juice content of 50% or less by volume that are shelf stable, carbonated soft drinks, carbonated drinks enhanced with vitamins, minerals, nutrients, amino acids and/or herbs, [aerated water, soda water and seltzer water,] but excluding perishable beverage products that contain fruit juice or soy, whether such products are pasteurized or not		

U.S. Registration No.	3134841	Application Date	05/07/2003
Registration Date	08/29/2006	Foreign Priority Date	NONE
Word Mark	M MONSTER ENERGY		
Design Mark			
Description of Mark	NONE		
Goods/Services	Class 032. First use: First Use: 2002/03/27 First Use In Commerce: 2002/04/18 Beverages, namely, carbonated soft drinks, carbonated soft drinks enhanced with vitamins, minerals, nutrients, amino acids and/or herbs, carbonated [and non-carbonated] energy and sports drinks, fruit juice drinks having a juice content of 50% or less by volume that are shelf stable, [and aerated water, soda water and seltzer water,] but excluding perishable beverage products that contain fruit juice or soy, whether such products are pasteurized or not		

U.S. Registration No.	3134842	Application Date	05/07/2003
-----------------------	---------	------------------	------------

Registration Date	08/29/2006	Foreign Priority Date	NONE
Word Mark	M MONSTER ENERGY		
Design Mark			
Description of Mark	NONE		
Goods/Services	Class 032. First use: First Use: 2002/03/27 First Use In Commerce: 2002/04/18 Beverages, namely, carbonated soft drinks, carbonated drinks enhanced with vitamins, minerals, nutrients, amino acids and/or herbs, carbonated [and non-carbonated] energy or sports drinks, fruit juice drinks having a juice content of 50% or less by volume that are shelf stable, [and water,] but excluding perishable beverage products that contain fruit juice or soy, whether such products are pasteurized or not		

U.S. Registration No.	3044314	Application Date	05/23/2003
Registration Date	01/17/2006	Foreign Priority Date	NONE
Word Mark	M MONSTER ENERGY		
Design Mark			
Description of Mark	NONE		
Goods/Services	Class 005. First use: First Use: 2002/03/27 First Use In Commerce: 2002/04/18 nutritional supplements in liquid [and non-liquid] form, but excluding perishable beverage products that contain fruit juice or soy, whether such products are pasteurized or not		

U.S. Registration No.	3044315	Application Date	05/23/2003
Registration Date	01/17/2006	Foreign Priority Date	NONE
Word Mark	MONSTER ENERGY		
Design Mark			
Description of Mark	NONE		
Goods/Services	Class 005. First use: First Use: 2002/03/27 First Use In Commerce: 2002/04/18 nutritional supplements in liquid [and non-liquid] form, but excluding perishable beverage products that contain fruit juice or soy, whether such products are pasteurized or not		

Attachments	2013-09-09 Enclosures for Notice of Opposition - HANBEV.1917M.PDF(3469244 bytes) 2013-09-09 Signed Notice of Opposition - HANBEV.1917M.PDF(371149 bytes)
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Signature	/Brigette B. Chaput/
Name	Brigette B. Chaput
Date	09/09/2013



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**MONSTER
ENERGY**

Word Mark

M MONSTER ENERGY

**Goods and
Services**

IC 025. US 022 039. G & S: Clothing, namely, t-shirts, hooded shirts and hooded sweatshirts, sweat shirts, jackets, pants, bandanas, sweat bands and gloves; headgear, namely, hats and beanies. FIRST USE: 20020524. FIRST USE IN COMMERCE: 20020630

**Mark Drawing
Code**

(5) WORDS, LETTERS, AND/OR NUMBERS IN STYLIZED FORM

Trademark

**Search Facility
Classification
Code**

LETS-1 M A single letter, multiples of a single letter or in combination with a design
SHAPES-MISC Miscellaneous shaped designs

Serial Number

77705822

Filing Date

April 2, 2009

Current Basis

1A

**Original Filing
Basis**

1B

**Published for
Opposition**

June 23, 2009

**Registration
Number**

3908601

**International
Registration
Number**

1048069

**Registration
Date**

January 18, 2011

Owner

(REGISTRANT) Hansen Beverage Company CORPORATION DELAWARE 550 Monica Circle Suite 201 Corona CALIFORNIA 92880

(LAST LISTED OWNER) MONSTER ENERGY COMPANY CORPORATION DELAWARE 1 Monster Way Corona CALIFORNIA 92879

Assignment

Recorded	ASSIGNMENT RECORDED
Attorney of Record	Diane M. Reed
Prior Registrations	3044314;3134841;3134842;AND OTHERS
Disclaimer	NO CLAIM IS MADE TO THE EXCLUSIVE RIGHT TO USE "ENERGY" APART FROM THE MARK AS SHOWN
Description of Mark	Color is not claimed as a feature of the mark. The mark consists of a stylized letter "M" and stylized words "MONSTER ENERGY".
Type of Mark	TRADEMARK
Register/PRIN	CIPAL
Live/Dead Indicator	LIVE

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Total Assignments: 1

Serial #: 77705822

Filing Dt: 04/02/2009

Reg #: 3908601

Reg. Dt: 01/18/2011

Registrant: Hansen Beverage Company

Mark: M MONSTER ENERGY

Assignment: 1

Reel/Frame: 4699/0063

Recorded: 01/13/2012

Pages: 10

Conveyance: CHANGE OF NAME

Assignor: HANSEN BEVERAGE COMPANY

Exec Dt: 01/05/2012

Entity Type: CORPORATION

Citizenship: DELAWARE

Entity Type: CORPORATION

Citizenship: DELAWARE

Assignee: MONSTER ENERGY COMPANY

550 MONICA CIRCLE, SUITE 201

CORONA, CALIFORNIA 92880

Correspondent: DIANE M. REED

2040 MAIN STREET, 14TH FLOOR

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Mark: M MONSTER ENERGY



US Serial Number: 77705822

Application Filing Date: Apr. 02, 2009

US Registration Number: 3908601

Registration Date: Jan. 18, 2011

Register: Principal

Mark Type: Trademark

Status: Registered. The registration date is used to determine when post-registration maintenance documents are due.

Status Date: Jan. 18, 2011

Publication Date: Jun. 23, 2009

Notice of Allowance Date: Sep. 15, 2009

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- ▲ **Goods and Services**
- ▲ **Basis Information (Case Level)**
- ▲ **Current Owner(s) Information**
- ▲ **Attorney/Correspondence Information**
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MONSTER ENERGY

Word Mark

MONSTER ENERGY

Goods and Services

IC 032. US 045 046 048. G & S: Non-alcoholic beverages, namely, energy drinks, excluding perishable beverage products that contain fruit juice or soy. FIRST USE: 20020327. FIRST USE IN COMMERCE: 20020418

Standard Characters Claimed

Mark Drawing Code

(4) STANDARD CHARACTER MARK

Serial Number

77276989

Filing Date

September 11, 2007

Current Basis

1A

Original Filing Basis

1A

Published for Opposition

July 26, 2011

Registration Number

4036681

Registration Date

October 11, 2011

Owner

(REGISTRANT) Hansen Beverage Company CORPORATION DELAWARE 550 Monica Circle Suite 201 Corona CALIFORNIA 92880

(LAST LISTED OWNER) MONSTER ENERGY COMPANY CORPORATION DELAWARE 1 Monster Way Corona CALIFORNIA 92879

Assignment Recorded

ASSIGNMENT RECORDED

Attorney of Record

Diane M. Reed

Prior Registrations

3044314;3044315;3057061;3134841;3134842

Disclaimer	NO CLAIM IS MADE TO THE EXCLUSIVE RIGHT TO USE "ENERGY" APART FROM THE MARK AS SHOWN
Type of Mark	TRADEMARK
Register	PRINCIPAL
Live/Dead Indicator	LIVE

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Serial #: 77276989

Filing Dt: 09/11/2007

Reg #: 4036681

Reg. Dt: 10/11/2011

Registrant: Hansen Beverage Company

Mark: MONSTER ENERGY

Assignment: 1

Reel/Frame: 4699/0063

Recorded: 01/13/2012

Pages: 10

Conveyance: CHANGE OF NAME

Assignor: HANSEN BEVERAGE COMPANY

Exec Dt: 01/05/2012

Entity Type: CORPORATION

Citizenship: DELAWARE

Entity Type: CORPORATION

Citizenship: DELAWARE

Assignee: MONSTER ENERGY COMPANY

550 MONICA CIRCLE, SUITE 201

CORONA, CALIFORNIA 92880

Correspondent: DIANE M. REED

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MONSTER ENERGY

US Serial Number: 77276989

Application Filing Date: Sep. 11, 2007

US Registration Number: 4036681

Registration Date: Oct. 11, 2011

Register: Principal

Mark Type: Trademark

Status: Registered. The registration date is used to determine when post-registration maintenance documents are due.

Status Date: Oct. 11, 2011

Publication Date: Jul. 26, 2011

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Typed Drawing

Word Mark MONSTER ENERGY

Goods and Services IC 032. US 045 046 048. G & S: Fruit juice drinks having a juice content of 50% or less by volume that are shelf stable, carbonated soft drinks, carbonated drinks enhanced with vitamins, minerals, nutrients, amino acids and/or herbs, [aerated water, soda water and seltzer water,] but excluding perishable beverage products that contain fruit juice or soy, whether such products are pasteurized or not. FIRST USE: 20020327. FIRST USE IN COMMERCE: 20020418

Mark Drawing Code (1) TYPED DRAWING

Serial Number 78122679

Filing Date April 18, 2002

Current Basis 1A

Original Filing Basis 1A

Published for Opposition March 11, 2003

Registration Number 3057061

Registration Date February 7, 2006

Owner (REGISTRANT) Hansen Beverage Company CORPORATION DELAWARE 550 Monica Circle Suite 201 Corona CALIFORNIA 92880
(LAST LISTED OWNER) MONSTER ENERGY COMPANY CORPORATION DELAWARE 1 Monster Way Corona CALIFORNIA 92879

Assignment Recorded ASSIGNMENT RECORDED

Attorney of Record Diane M. Reed

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Type of Mark TRADEMARK

Register PRINCIPAL
Affidavit
Text SECT 15. SECT 8 (6-YR).
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Serial #: [78122679](#)

Filing Dt: 04/18/2002

Reg #: [3057061](#)

Reg. Dt: 02/07/2006

Registrant: Hansen Beverage Company

Mark: MONSTER ENERGY

Assignment: 1

Reel/Frame: [4699/0063](#)

Recorded: 01/13/2012

Pages: 10

Conveyance: CHANGE OF NAME

Assignor: [HANSEN BEVERAGE COMPANY](#)

Exec Dt: 01/05/2012

Entity Type: CORPORATION

Citizenship: DELAWARE

Entity Type: CORPORATION

Citizenship: DELAWARE

Assignee: [MONSTER ENERGY COMPANY](#)

550 MONICA CIRCLE, SUITE 201

CORONA, CALIFORNIA 92880

Correspondent: DIANE M. REED

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Mark: MONSTER ENERGY

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US Serial Number: 78122679

Application Filing Date: Apr. 18, 2002

US Registration Number: 3057061

Registration Date: Feb. 07, 2006

Register: Principal

Mark Type: Trademark

Status: A Sections 8 and 15 combined declaration has been accepted and acknowledged.

Status Date: Feb. 10, 2012

Publication Date: Mar. 11, 2003

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- ▶ **Basis Information (Case Level)**
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MONSTER
ENERGY

Word Mark M MONSTER ENERGY

Goods and Services IC 032. US 045 046 048. G & S: Beverages, namely, carbonated soft drinks, carbonated soft drinks enhanced with vitamins, minerals, nutrients, amino acids and/or herbs, carbonated [and non-carbonated] energy and sports drinks, fruit juice drinks having a juice content of 50% or less by volume that are shelf stable, [and aerated water, soda water and seltzer water,] but excluding perishable beverage products that contain fruit juice or soy, whether such products are pasteurized or not. FIRST USE: 20020327. FIRST USE IN COMMERCE: 20020418

Mark Drawing Code (5) WORDS, LETTERS, AND/OR NUMBERS IN STYLIZED FORM

Serial Number 78246567

Filing Date May 7, 2003

Current Basis 1A

Original Filing Basis 1A

Published for Opposition June 6, 2006

Registration Number 3134841

Registration Date August 29, 2006

Owner (REGISTRANT) Hansen Beverage Company CORPORATION DELAWARE 550 Monica Circle Suite 201 Corona CALIFORNIA 92880

(LAST LISTED OWNER) MONSTER ENERGY COMPANY CORPORATION DELAWARE 1 Monster Way Corona CALIFORNIA 92879

Assignment Recorded ASSIGNMENT RECORDED

**Attorney of
Record**

Steven J. Nataupsky

Disclaimer

NO CLAIM IS MADE TO THE EXCLUSIVE RIGHT TO USE "ENERGY" APART FROM THE MARK AS SHOWN

**Description
of Mark**

Color is not claimed as a feature of the mark.

**Type of
Mark**

TRADEMARK

Register

PRINCIPAL

**Affidavit
Text**

SECT 15. SECT 8 (6-YR).

**Live/Dead
Indicator**

LIVE

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Total Assignments: 1

Serial #: [78246567](#)

Filing Dt: 05/07/2003

Reg #: [3134841](#)

Reg. Dt: 08/29/2006

Registrant: Hansen Beverage Company

Mark: M MONSTER ENERGY

Assignment: 1

Reel/Frame: [4699/0063](#)

Recorded: 01/13/2012

Pages: 10

Conveyance: CHANGE OF NAME

Assignor: [HANSEN BEVERAGE COMPANY](#)

Exec Dt: 01/05/2012

Entity Type: CORPORATION

Citizenship: DELAWARE

Entity Type: CORPORATION

Citizenship: DELAWARE

Assignee: [MONSTER ENERGY COMPANY](#)

550 MONICA CIRCLE, SUITE 201

CORONA, CALIFORNIA 92880

Correspondent: DIANE M. REED

2040 MAIN STREET, 14TH FLOOR

IRVINE, CA 92614

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Mark: M MONSTER ENERGY



US Serial Number: 78246567

Application Filing Date: May 07, 2003

US Registration Number: 3134841

Registration Date: Aug. 29, 2006

Register: Principal

Mark Type: Trademark

Status: A Sections 8 and 15 combined declaration has been accepted and acknowledged.

Status Date: Jun. 11, 2012

Publication Date: Jun. 06, 2006

- ▶ **Mark Information**
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Typed Drawing

Word Mark M MONSTER ENERGY

Goods and Services IC 032. US 045 046 048. G & S: Beverages, namely, carbonated soft drinks, carbonated drinks enhanced with vitamins, minerals, nutrients, amino acids and/or herbs, carbonated [and non-carbonated] energy or sports drinks, fruit juice drinks having a juice content of 50% or less by volume that are shelf stable, [and water,] but excluding perishable beverage products that contain fruit juice or soy, whether such products are pasteurized or not. FIRST USE: 20020327. FIRST USE IN COMMERCE: 20020418

Mark Drawing Code (1) TYPED DRAWING

Serial Number 78246573

Filing Date May 7, 2003

Current Basis 1A

Original Filing Basis 1A

Published for Opposition June 6, 2006

Registration Number 3134842

Registration Date August 29, 2006

Owner (REGISTRANT) Hansen Beverage Company CORPORATION DELAWARE 550 Monica Circle Suite 201 Corona CALIFORNIA 92880

(LAST LISTED OWNER) MONSTER ENERGY COMPANY CORPORATION DELAWARE 1 Monster Way Corona CALIFORNIA 92879

Assignment Recorded ASSIGNMENT RECORDED

Attorney of Record Steven J. Nataupsky

Disclaimer NO CLAIM IS MADE TO THE EXCLUSIVE RIGHT TO USE "ENERGY" APART FROM THE MARK AS SHOWN

Type of Mark TRADEMARK

Register PRINCIPAL
Affidavit
Text SECT 15. SECT 8 (6-YR).
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Trademark Assignment Abstract of Title

Total Assignments: 1

Serial #: 78246573

Filing Dt: 05/07/2003

Reg #: 3134842

Reg. Dt: 08/29/2006

Registrant: Hansen Beverage Company

Mark: M MONSTER ENERGY

Assignment: 1

Reel/Frame: 4699/0063

Recorded: 01/13/2012

Pages: 10

Conveyance: CHANGE OF NAME

Assignor: HANSEN BEVERAGE COMPANY

Exec Dt: 01/05/2012

Entity Type: CORPORATION

Citizenship: DELAWARE

Entity Type: CORPORATION

Citizenship: DELAWARE

Assignee: MONSTER ENERGY COMPANY

550 MONICA CIRCLE, SUITE 201

CORONA, CALIFORNIA 92880

Correspondent: DIANE M. REED

2040 MAIN STREET, 14TH FLOOR

IRVINE, CA 92614

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Mark: M MONSTER ENERGY

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US Serial Number: 78246573

Application Filing Date: May 07, 2003

US Registration Number: 3134842

Registration Date: Aug. 29, 2006

Register: Principal

Mark Type: Trademark

Status: A Sections 8 and 15 combined declaration has been accepted and acknowledged.

Status Date: Jun. 11, 2012

Publication Date: Jun. 06, 2006

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Typed Drawing

Word Mark M MONSTER ENERGY

Goods and Services IC 005. US 006 018 044 046 051 052. G & S: nutritional supplements in liquid [and non-liquid] form, but excluding perishable beverage products that contain fruit juice or soy, whether such products are pasteurized or not. FIRST USE: 20020327. FIRST USE IN COMMERCE: 20020418

Mark Drawing Code (1) TYPED DRAWING

Serial Number 78253930

Filing Date May 23, 2003

Current Basis 1A

Original Filing Basis 1A

Published for Opposition August 31, 2004

Change In Registration CHANGE IN REGISTRATION HAS OCCURRED

Registration Number 3044314

Registration Date January 17, 2006

Owner (REGISTRANT) Hansen Beverage Company CORPORATION DELAWARE 550 Monica Circle Suite 201 Corona CALIFORNIA 92880

(LAST LISTED OWNER) MONSTER ENERGY COMPANY CORPORATION DELAWARE 1 Monster Way Corona CALIFORNIA 92879

Assignment Recorded ASSIGNMENT RECORDED

Attorney of Record DIANE M. REED

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Type of TRADEMARK

Mark

Register PRINCIPAL

**Affidavit
Text** SECT 15. SECT 8 (6-YR).

**Live/Dead
Indicator** LIVE

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Trademark Assignment Abstract of Title

Total Assignments: 1

Serial #: 78253930

Filing Dt: 05/23/2003

Reg #: 3044314

Reg. Dt: 01/17/2006

Registrant: Hansen Beverage Company

Mark: M MONSTER ENERGY

Assignment: 1

Reel/Frame: 4699/0063

Recorded: 01/13/2012

Pages: 10

Conveyance: CHANGE OF NAME

Assignor: HANSEN BEVERAGE COMPANY

Exec Dt: 01/05/2012

Entity Type: CORPORATION

Citizenship: DELAWARE

Entity Type: CORPORATION

Citizenship: DELAWARE

Assignee: MONSTER ENERGY COMPANY

550 MONICA CIRCLE, SUITE 201

CORONA, CALIFORNIA 92880

Correspondent: DIANE M. REED

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Mark: M MONSTER ENERGY

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US Serial Number: 78253930

Application Filing Date: May 23, 2003

US Registration Number: 3044314

Registration Date: Jan. 17, 2006

Register: Principal

Mark Type: Trademark

Status: A Sections 8 and 15 combined declaration has been accepted and acknowledged.

Status Date: Dec. 02, 2011

Publication Date: Aug. 31, 2004

- ▶ **Mark Information**
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Typed Drawing

Word Mark MONSTER ENERGY

Goods and Services IC 005. US 006 018 044 046 051 052. G & S: nutritional supplements in liquid [and non-liquid] form, but excluding perishable beverage products that contain fruit juice or soy, whether such products are pasteurized or not. FIRST USE: 20020327. FIRST USE IN COMMERCE: 20020418

Mark Drawing Code (1) TYPED DRAWING

Serial Number 78253933

Filing Date May 23, 2003

Current Basis 1A

Original Filing Basis 1A

Published for Opposition September 7, 2004

Change In Registration CHANGE IN REGISTRATION HAS OCCURRED

Registration Number **3044315**

Registration Date January 17, 2006

Owner (REGISTRANT) Hansen Beverage Company CORPORATION DELAWARE 550 Monica Circle Suite 201 Corona CALIFORNIA 92880

(LAST LISTED OWNER) MONSTER ENERGY COMPANY CORPORATION DELAWARE 1 Monster Way Corona CALIFORNIA 92879

Assignment Recorded ASSIGNMENT RECORDED

Attorney of Record Diane M. Reed

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Type of TRADEMARK

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**Affidavit
Text** SECT 15. SECT 8 (6-YR).

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Total Assignments: 1

Serial #: 78253933

Filing Dt: 05/23/2003

Reg #: 3044315

Reg. Dt: 01/17/2006

Registrant: Hansen Beverage Company

Mark: MONSTER ENERGY

Assignment: 1

Reel/Frame: 4699/0063

Recorded: 01/13/2012

Pages: 10

Conveyance: CHANGE OF NAME

Assignor: HANSEN BEVERAGE COMPANY

Exec Dt: 01/05/2012

Entity Type: CORPORATION

Citizenship: DELAWARE

Entity Type: CORPORATION

Citizenship: DELAWARE

Assignee: MONSTER ENERGY COMPANY

550 MONICA CIRCLE, SUITE 201

CORONA, CALIFORNIA 92880

Correspondent: DIANE M. REED

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Mark: MONSTER ENERGY

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US Serial Number: 78253933

Application Filing Date: May 23, 2003

US Registration Number: 3044315

Registration Date: Jan. 17, 2006

Register: Principal

Mark Type: Trademark

Status: A Sections 8 and 15 combined declaration has been accepted and acknowledged.

Status Date: Dec. 01, 2011

Publication Date: Sep. 07, 2004

▲ Mark Information

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▲ Goods and Services

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**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD**

MONSTER ENERGY COMPANY,

Opposer,

v.

MONSTERS AND MACHINES, LLC,

Applicant.

Opposition No.: _____

Serial No.: 85/746755

Mark:



NOTICE OF OPPOSITION

Commissioner for Trademarks
P.O. Box 1451
Alexandria, VA 22313-1451

Dear Sir/Madam:

Monster Energy Company, a Delaware corporation, located and doing business at 1 Monster Way, Corona, California 92879, ("Opposer") believes that it will be damaged by registration of U.S. Trademark Application Serial No. 85746755 ("Application") for the mark



owned by Monsters and Machines, LLC ("Applicant") and therefore opposes the same.

As grounds for opposition, it is alleged:

1. By the Application filed on October 5, 2012, Applicant seeks to obtain registration




on the Principal Register of the trademark for "Hats; Hooded sweatshirts; Jackets;

Pants; Shirts; Short-sleeved or long-sleeved t-shirts; Shorts; Sweatshirts; T-shirts; Tank tops” in International Class 25.

2. Since at least 2002, long before the filing date of the Application, Opposer has been, and still is, engaged in the development, production, marketing and sale of energy supplement drinks under the mark MONSTER ENERGY and related marks, all containing “MONSTER.”

3. Since at least 2002, long before the filing date of the Application, Opposer has been, and still is, engaged in the development, licensing, marketing and sale of clothing and accessories bearing Opposer’s MONSTER ENERGY and related “MONSTER” marks.

4. Opposer owns and relies on U.S. Trademark Registration 3,908,601 for the mark  for “Clothing, namely, t-shirts, hooded shirts and hooded sweatshirts, sweat shirts, jackets, pants, bandanas, sweat bands and gloves; headgear, namely, hats and beanies” in International Class 25, which registration issued January 18, 2011 and is based on an application filed in the United States Patent and Trademark Office (“PTO”) on April 2, 2009. The filing date of Opposer’s ‘601 Registration is prior to the filing date of the Application. True and correct copies of the specifics of the ‘601 Registration obtained from the PTO’s TSDR, TESS and Assignment databases are attached hereto and made of record.


5. Opposer owns and relies on U.S. Trademark Registration 4,036,681 for the mark MONSTER ENERGY for “Non-alcoholic beverages, namely, energy drinks, excluding perishable beverage products that contain fruit juice or soy” in International Class 32, which registration issued October 11, 2011 and is based on an application filed in the United States Patent and Trademark Office (“PTO”) on September 11, 2007. The filing date of Opposer’s ‘681 Registration is prior to the filing date of the Application. True and correct copies of the specifics of the ‘681 Registration obtained from the PTO’s TSDR, TESS and Assignment databases are attached hereto and made of record.

6. Opposer owns and relies on incontestable U.S. Trademark Registration No.

3,057,061 for the mark MONSTER ENERGY for “Fruit juice drinks having a juice content of 50% or less by volume that are shelf stable, carbonated soft drinks, carbonated drinks enhanced with vitamins, minerals, nutrients, amino acids and/or herbs, but excluding perishable beverage products that contain fruit juice or soy, whether such products are pasteurized or not” in International Class 32, which registration issued February 7, 2006 and is based on an application filed in the PTO on April 18, 2002. The filing date of Opposer’s ‘061 Registration is prior to the filing date of the Application. True and correct copies of the specifics of the ‘061 Registration obtained from the PTO’s TSDR, TESS and Assignment databases are attached hereto and made of record.

7. Opposer owns and relies on incontestable U.S. Trademark Registration No.



3,134,841 for the mark  for “Beverages, namely, carbonated soft drinks, carbonated soft drinks enhanced with vitamins, minerals, nutrients, amino acids and/or herbs, carbonated energy and sports drinks, fruit juice drinks having a juice content of 50% or less by volume that are shelf stable, but excluding perishable beverage products that contain fruit juice or soy, whether such products are pasteurized or not” in International Class 32, which registration issued August 29, 2006 and is based on an application filed in the PTO on May 7, 2003. The filing date of Opposer’s ‘841 Registration is prior to the filing date of the Application. True and correct copies of the specifics of the ‘841 Registration obtained from the PTO’s TSDR, TESS and Assignment databases are attached hereto and made of record.

8. Opposer owns and relies on incontestable U.S. Trademark Registration No. 3,134,842 for the mark M MONSTER ENERGY for “Beverages, namely, carbonated soft drinks, carbonated drinks enhanced with vitamins, minerals, nutrients, amino acids and/or herbs, carbonated energy or sports drinks, fruit juice drinks having a juice content of 50% or less by volume that are shelf stable, but excluding perishable beverage products that contain fruit juice or soy, whether such products are pasteurized or not” in International Class 32, which registration issued August 29, 2006 and is based on an application filed in the PTO on May 7,

2003. The filing date of Opposer's '842 Registration is prior to the filing date of the Application. True and correct copies of the specifics of the '842 Registration obtained from the PTO's TSDR, TESS and Assignment databases are attached hereto and made of record.


9. Opposer owns and relies on incontestable U.S. Trademark Registration No. 3,044,314 for the mark M MONSTER ENERGY for "nutritional supplements in liquid form, but excluding perishable beverage products that contain fruit juice or soy, whether such products are pasteurized or not" in International Class 5, which registration issued January 17, 2006 and is based on an application filed in the PTO on May 23, 2003. The filing date of Opposer's '314 Registration is prior to the filing date of the Application. True and correct copies of the specifics of the '314 Registration obtained from the PTO's TSDR, TESS and Assignment databases are attached hereto and made of record.

10. Opposer owns and relies on incontestable U.S. Trademark Registration No. 3,044,315 for the mark MONSTER ENERGY for "nutritional supplements in liquid form, but excluding perishable beverage products that contain fruit juice or soy, whether such products are pasteurized or not" in International Class 5, which registration issued January 17, 2006 and is based on an application filed in the PTO on May 23, 2003. The filing date of Opposer's '315 Registration is prior to the filing date of the Application. True and correct copies of the specifics of the '315 Registration obtained from the PTO's TSDR, TESS and Assignment databases are attached hereto and made of record.

11. Opposer's Registrations Nos. 3,908,601, 4,036,681, 3,057,061, 3,134,841, 3,134,842, 3,044,314, and 3,044,315 are valid, subsisting, unrevoked and uncanceled; as such they constitute *prima facie* evidence of the validity of the registered marks and of the registrations thereof, and of Opposer's ownership of the marks shown therein. Opposer's registrations also constitute notice to Applicant of Opposer's claim of ownership of the marks shown therein as provided in Sections 7(b), 22 and 33(a) of the Trademark Act.

12. Opposer's registrations as specified in Paragraphs 6, 7, 8, 9, and 10 above are incontestable. As such, they constitute conclusive evidence of the validity of the registered marks

and of the registration of the marks, of Opposer's ownership of its marks, and of Opposer's exclusive right to use the registered marks in commerce as provided in Section 33 of the Lanham Act, 15 U.S.C. § 1115.

13. Since at least before the filing date of the Application, Opposer has continuously used and promoted the , MONSTER ENERGY and M MONSTER ENERGY Marks shown in Registration Nos. 3,908,601, 4,036,681, 3,057,061, 3,134,841, 3,134,842, 3,044,314, and 3,044,315 (the "MONSTER Marks") in interstate commerce in connection with its goods, including the goods identified in such Registrations. By virtue of Opposer's continuous and substantial use, these marks have become famous identifiers of Opposer and its goods, and distinguish Opposer's goods from the goods of others. As a result, Opposer has built up, at great expense and effort, valuable goodwill in the MONSTER Marks.

14. In addition to the protection afforded Opposer by its federal trademark registrations, Opposer has extensive common law rights in its MONSTER Marks throughout the United States, having sold hundreds of millions of dollars worth of goods under Opposer's MONSTER Marks. Opposer's common law rights in its MONSTER Marks predate the filing date of the Application. Opposer relies on its common law trademark rights in Opposer's MONSTER Marks.

15. Opposer has used and continues to use its MONSTER Marks extensively in connection with clothing, accessories, and sports gear, including, t-shirts, hooded shirts, hooded sweatshirts, sweat shirts, jackets, pants, bandanas, sweat bands, gloves, headgear, bags, stickers and decals.

16. Opposer has used its MONSTER Marks extensively in connection with clothing, accessories, and sports gear since well before the filing date of the Application. Numerous televised athletes wear clothing bearing the MONSTER Marks to promote Opposer's MONSTER ENERGY® brand.


17. Through extensive use and promotion, Opposer's MONSTER Marks have

become famous for Opposer's goods since well before the filing date of the Application. Opposer's well-known MONSTER Marks are global brands that have appeared on billions of beverage cans, on clothing, accessories, sports gear, and in extensive nationwide promotions. These include, among other things, sponsorship of music festivals, athletes, and sports events that are televised live nationwide and internationally and prominently feature Opposer's MONSTER Marks.

18. There is a huge demand for t-shirts, hats, jackets, sweatshirts, and other clothing, gear and merchandise bearing Opposer's MONSTER Marks. Monster has entered into license agreements with several clothing manufacturers, giving them a license to produce and sell clothing that bears Opposer's MONSTER Marks. In the United States, Opposer's licensees have sold licensed apparel bearing Opposer's MONSTER Marks to consumers in all 50 states through their own websites and through nationwide retailers including PacSun, Tilly's, Jack's, Zumiez's, and Zappos. Those nationwide retailers have also sold the licensed apparel bearing Opposer's MONSTER Marks through their own websites. These licensees and others also sell the licensed apparel bearing the MONSTER Marks throughout the world including on websites, in retail stores, and at sporting events.

19. The Application was filed on October 5, 2012, and is based on Applicant's intent-to-use the mark in interstate commerce. Opposer's use of its Family of MONSTER Marks predates Applicant's use of its mark.



20. Applicant seeks an unrestricted federal registration for  covering the goods in Class 25 set forth in the Application. As such, if a registration issues for the Application, such registration will constitute prima facie evidence of the Applicant's exclusive right to use the registered mark in commerce on or in connection with the listed goods and services throughout the United States with no limitation thereon.



21. Opposer will be damaged by registration of the Application in that the mark so resembles Opposer's MONSTER Marks registered in the United States Patent and Trademark Office, and in which Opposer owns common law trademark rights, as to be likely, when used on or in connection with the goods as they are identified in the Application, as to cause confusion, or to cause mistake or to deceive within the meaning of Section 2(d) of the Trademark Act, 15 U.S.C. § 1052(d).



22. Opposer will be damaged by registration of the Application in that the mark will dilute the distinctive quality of Opposer's MONSTER Marks within the meaning of Section 43(c) of the Trademark Act, 15 U.S.C. 1125(c), and will lessen the ability of Opposer's MONSTER Marks to distinguish Opposer's goods.

23. In view of Opposer's prior rights in its MONSTER Marks, Applicant is not entitled



to federal registration of the mark pursuant to Section 2(d) of the Trademark Act, 15 U.S.C. § 1052(d).

24. In view of Opposer's prior rights in its MONSTER Marks, Applicant is not entitled



to federal registration of the mark pursuant to Section 43(c) of the Trademark Act, 15 U.S.C. 1125(c).

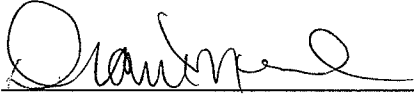
WHEREFORE, Opposer prays that U.S. Trademark Application Serial No. 85/746755 be rejected and stricken, that no registration be issued thereon to Applicant, and that this opposition be sustained in favor of Opposer.

Please charge Deposit Account No. 11-1410 to cover the opposition fee and any additional fees which may be required, or credit any overpayment to this account.

Respectfully submitted,

KNOBBE, MARTENS, OLSON & BEAR, LLP

Dated: Sept. 9, 2013

By: 

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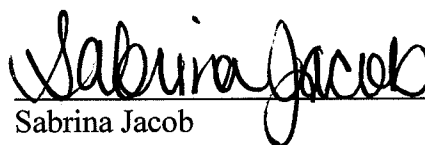
Attorneys for Opposer,

MONSTER ENERGY COMPANY

CERTIFICATE OF SERVICE

I hereby certify that I served a copy of the foregoing NOTICE OF OPPOSITION upon Applicant by depositing one copy thereof in the United States Mail, first-class postage prepaid, on September 9, 2013, addressed as follows:

MONSTERS AND MACHINES, LLC
4907 Queensbury Cir.
Fredericksburg, VA 22408-1822


Sabrina Jacob

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